



Children's Justice & Advocacy Report

To promote community responsibility so every Pennsylvania child is protected from child abuse, including sexual abuse.

In the October 1st edition:

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1 week till a PA budget, more like another day (91 in fact) and more rounds of gotcha politics

As promised, this week Governor Tom Wolf used his overworked veto pen.

Republican lawmakers were able to get [Senate Bill 1000](#) on Wolf's desk. The legislation sought to release all federal funding and four months of State funding (at the current funding levels) to schools, human service agencies, health care providers, etc.

Wolf didn't like the stop-gap spending measure for the same reason he vetoed the earlier full 2015-2016 budget. Essentially it doesn't "fully fund education" or undo the "damaging" cuts made to human and social services over the last several years. And of course he sees the path Republicans have hoped to take as not equivalent to a "balanced" budget that doesn't rely on "gimmicks."

As he vetoed Senate Bill 1000, Wolf also used his pen to invite lawmakers "back to the bargaining table."¹

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Inaction on SOL reform triggers new tactics

For nearly a decade, efforts to reform Pennsylvania's statute of limitations (SOLs) – criminal and civil – related to child sexual abuse have been going nowhere in the Pennsylvania General Assembly.

Updates to PA's criminal and civil SOLs happened in 2002 and then 2006 (criminal only).

More recently movement has been stalled with divisive rhetoric and actions stemming from efforts to enact a time-limited "window" for civil claims. A time-limited (e.g., 2 years) "window"

¹ <https://www.scribd.com/doc/283117090/09-29-15-Veto-Messages>

would permit a person previously barred by SOLs to file a civil claim against the person responsible for the child sexual abuse.

SOL legislation generally would fall within the jurisdiction of the Judiciary Committee. A growing list of SOL bills have been introduced in the PA House (in multiple legislative sessions that span nearly a decade). Opposition to the SOL reform provisions related to a “window” has been fierce over the years and has aided in inaction on SOL reforms overall. Republican

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10 years and 2 Grand Juries later pursuit of SOL reforms continues

Twice the Philadelphia District Attorney’s office convened a Grand Jury to investigate crimes related to the sexual abuse of children by clergy affiliated with the Archdiocese of Philadelphia.

The Grand Jury empaneled in 2003 issued its report in 2005 leading with this statement: “This report contains the findings of the Grand Jury: how dozens of priests sexually abused hundreds of children; how Philadelphia Archdiocese officials – including Cardinal Bevilacqua and Cardinal Krol – excused and enabled the abuse; and how the law must be changed so that it doesn’t happen again. Some may be tempted to describe these events as tragic. Tragedies such as tidal waves, however, are outside human control. What we found were not acts of God, but of men who acted in His name and defiled it.”²

The report outlined that the Grand Jury was able to document that children had been sexually abused by “at least 63 different priests in the Archdiocese of Philadelphia.” The Grand Jury underscored that they believed “there were many more” and that they also were confident that there were many more victims than the “hundreds” documented.³

² Report of the County Investigating Grand Jury (MISC. NO. 03-00-239), Introduction to the Grand Jury Report.

³ Ibid.

⁴ Report of the County Investigating Grand Jury (MISC. NO. 03-00-239), Page 59

The 2005 Grand Jury demonstrated frustration that state statute of limitations (SOLs) related to many crimes committed against children (e.g., rape, involuntary deviate sexual intercourse, and endangering the welfare of children) provided a “windfall” for those who had inflicted the abuse.

The report addressed the fact that the SOLs “stand in the way of justice” for the victims.⁴

The 2005 report tells a complicated story of the arbitrary nature of SOLs – then and now. Prior to 1991, the SOLs for sexually-based crimes (e.g., rape, involuntary deviate sexual intercourse, incest) expired after a certain number of years with the clock ticking from the date of offense. Beginning in 1991, the SOL clock (for certain, not all sexual crimes against children) didn’t start ticking until the child victim turned eighteen and the abuse was committed by a person

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Pennsylvania advances SOL changes in 2002 and again in 2006

Act 86 of 2002 altered the criminal and civil SOLs in Pennsylvania.⁵ It extended from two years (after the victim’s 18th birthday) to 12 years the time by which a victim had to bring a civil suit in response to the childhood sexual abuse.

This extended SOL in civil cases requires that the sexual abuse was “as a result of forcible compulsion or by threat of forcible compulsion which would prevent resistance by a person of reasonable resolution” and include any of the following:

1. “sexual intercourse, which includes penetration, however slight, of any body part or object into the sex organ of another;
2. deviate sexual intercourse, which includes sexual intercourse per os or per anus; and

⁵<http://www.legis.state.pa.us/cfdocs/Legis/LI/uconsCheck.cfm?txtType=HTM&yr=2002&sessInd=0&smthLwInd=0&act=86>

3. indecent contact, which includes any touching of the sexual or other intimate parts of the person for the purpose of arousing or gratifying sexual desire in either person.”

The 2002 change for the criminal SOL also gave victims 12 years from his/her 18th birthday to have a criminal proceeding be commenced.

After the 2005 Grand Jury report was released, the Pennsylvania General Assembly acted again

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A chorus of “memories fade”

During debate on final passage of the legislation that would become Act 179, [Pennsylvania State Representative Greg Vitali](#) (D-Delaware) stood in opposition to the extended criminal SOL saying it was “a disservice to our criminal justice system.”⁶ He cited that an extended length of time would create a “situation where an innocent person could be wrongfully convicted and subjects a person accused of a crime to a position where he is really in an unfair position to defend himself.” He assured his colleagues that there are “very good reasons for statutes of limitations” and for “alleged victims to either come forward and make their accusation or forever hold silent.”⁷ Among those reasons “witnesses die, memories fail, crime scenes change.”⁸

Vitali’s arguments were disputed by the advocacy of a former prosecutor, then State Representative Will Gabig (R-Cumberland).⁹ Gabig reminded his colleagues that you could have a victim or multiple victims come forward and the perpetrator then admits to the “heinous” crimes against children.

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⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

⁹

<http://www.legis.state.pa.us/cfdocs/legis/BiosHistory/MemBio.cfm?ID=265&body=H>

PA’s child sexual abuse SOLs deemed “adequate” by Task Force on Child Protection

The General Assembly created a Task Force on Child Protection in December 2011. The Task Force then issued a comprehensive report in November 2012. The report was loaded with recommendations about how to define child abuse, who and how abuse should be reported, and affirming a team approach to investigations.

Throughout its many public hearings, the Task Force invited no testimony about the SOLs in Pennsylvania.

Eventually the Task Force’s report noted that it opted against offering any SOL recommendations suggesting that the current criminal and civil SOLs were “adequate” and that the state was “one of the most generous states” on this subject.¹⁰ The report continued, “The

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Safe Harbor for Sexually Exploited Children critiqued by PA district attorneys

In late May, Senate Bill 851 was introduced by [Senate Judiciary Committee Chairman Stewart Greenleaf \(R-Montgomery\)](#) and [Senator Daylin Leach](#) (D-Montgomery, Delaware) to establish a Safe Harbor for Sexually Exploited Children.

This week Senate Bill 851 was subjected to critique by the [Pennsylvania District Attorneys Association \(PDAA\)](#), who oppose the legislation, as drafted.

The proposed legislation defines a sexually exploited child as “any person under 18 years of age who has been subject to sexual exploitation because the person: is a victim of human trafficking or engages in an act of

¹⁰ Task Force on Child Protection Report, page 28 retrieved at

<http://www.childprotection.state.pa.us/Resources/pres/2012-11->

[27%20Child%20Protection%20Report%20FINAL.pdf](#)

prostitution" (as defined in Section 5902a of the Crimes Code). This legislation would create this

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